

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW JERSEY**

CHARLES MAILOT individually, and on behalf
of others similarly situated,

Plaintiff,

vs.

NEW JERSEY MANUFACTURERS
INSURANCE COMPANY

Defendant.

NO.

COMPLAINT

Plaintiff CHARLES MAILOT, individually, and on behalf of others similarly situated, by and through his attorneys at Sadaka Associates, LLC allege against NEW JERSEY MANUFACTURERS INSURANCE COMPANY (“NJM”) as follows:

INTRODUCTION

1. This Class Action Complaint seeks compensation owed on behalf of every NJM employee who was not provided proper payment.

2. Through a common and uniform course of conduct, NJM willfully or negligently failed to pay its employees as promised.

PARTIES

3. Plaintiff, CHARLES MAILOT (“Plaintiff”) is currently a resident of the State of Florida and was a resident of the State of New Jersey when employed by NJM. He is also an affected wage-shortage employee of NJM described below.

4. Defendant NJM is and was incorporated in the State of New Jersey with its home office on Sullivan Way in West Trenton, New Jersey.

5. Upon information and belief, and at all times relevant, NJM conducted business throughout New Jersey, New York, Connecticut, Maryland, and Pennsylvania with employees residing in many of the same states.

JURISDICTION

6. Jurisdiction is proper in this Court as the prerequisites of minimal diversity and amount in controversy are met under 28 U.S.C. § 1332(d).

FACTUAL ALLEGATIONS

7. All previous paragraphs are incorporated herein by reference.

8. At all times relevant, NJM provided insurance for auto, home and property, renters', and umbrella insurance policies.

9. At all times relevant, none of NJM's approximately 2,500 employees were unionized.

10. In January of 2017, NJM transitioned from paying its employees on a semi-monthly basis to being paid every two weeks.

11. This payroll transition was carried out improperly and resulted in each NJM employee experiencing a 3.846% decrease in pay and associated benefits for 2017; that wage-shortage continues into the present.

12. This pay discrepancy was apparent beginning in January of 2017 when the payroll transition happened and was brought to the attention of NJM's Payroll and Human Resources departments soon thereafter by the Plaintiff, but no action was ever taken to correct it.

13. Plaintiff is no longer an employee of NJM and has never been properly compensated for the wage-shortage described herein.

14. No former or current NJM employee has been properly compensated for the wage-shortage described herein.

CLASS ALLEGATIONS

15. All previous paragraphs are incorporated herein by reference.

16. Pursuant to Federal Rule of Civil Procedure 23, Plaintiff brings this action on behalf of himself and all other NJM employees who were employed before the payroll transition began (pre-2017) and continued to be employed after the payroll transition was completed.

17. This action is brought as a Class Action and may be so maintained as the numerosity, commonality, typically, and adequacy requirements for maintaining a Class Action under federal law are satisfied.

18. The members of this Class are so numerous as to render joinder impracticable.

19. Joinder of every NJM employee is impracticable because of the large number of Class members and the fact that Class members are dispersed over a large geographic area, with many members, including the Plaintiff, currently residing outside of the State of New Jersey.

20. Common questions of law and fact exist as to all members of the Class that predominate over any questions that effect only individual members of the Class.

21. These common questions of law and fact include, without limitation, whether NJM paid its employees properly and no individual questions of fact exist for any member of the entire Class or any Subclass thereof.

22. Plaintiff's claims are typical of the claims of the members of the Class and any Subclass thereof. All members of the Class are also fully ascertainable. The harms suffered by

the Plaintiff are typical of the harms suffered by the individual members of the Class because all have had their pay and benefits shorted in the same way and by 3.846% in the year of 2017.

23. The representative Plaintiff has the requisite personal interest in the outcome of this action and will fairly and adequately protect the interests of all employees who have been shorted in the Class. Plaintiff has no interests that are averse to the interests of the members of the Class.

24. A Class Action is superior to other methods for the fair and efficient adjudication of this controversy, since joinder of all of the affected NJM employees is impracticable, given the large number of Class members and the fact that they are dispersed over a large geographic area.

25. Furthermore, the expense and burden of individual litigation would make it impossible for individual members of the Class to redress these violations on their own. The cost to the judicial system would also be enormous. Individualized litigation would also magnify the delay to all parties and the bog down the civil justice system unnecessarily.

26. The named Plaintiff has retained counsel with substantial experience and success in the prosecution of Class Action and employment litigation claims. Plaintiff is represented by the Law Offices of Sadaka Associates, LLC. Plaintiff's counsel has the resources, expertise and experience to successfully prosecute the action against the Defendants. Upon information and belief, no conflict exists between the Plaintiff and members of the Class, or between counsel and members of the Class.

27. Upon information and belief, there are no other actions pending to address the named Defendants' conduct in shortening the wages of its employees.

28. As such, Plaintiff seeks Class Certification under Federal Rule of Civil Procedure 23 in that the questions of law or fact common to all members of the Class or any Subclass thereof

predominate over any questions affecting only individual members, and that a Class Action is far superior to other available methods for the fair and efficient adjudication of this Complaint.

COUNT I:
BREACH OF CONTRACT

29. All previous paragraphs are incorporated herein by reference.

30. Upon information and belief, Plaintiff and others similarly situated entered into either an at will or written contract for employment with NJM.

31. In return for work done and time spent working for NJM, and pursuant to either an at will employment agreement or a written employment contract, the named Plaintiff and others similarly situated were to be paid as promised.

32. NJM breached its employment agreement by failing to pay the Plaintiff and others similarly situated all the wages due for the benefits provided by them.

33. NJM failed to accurately pay the named Plaintiff and others similarly situated as described above.

34. The named Plaintiff and others similarly situated have been damaged due to the willful or negligent action or inaction of the NJM Group.

WHEREFORE, the Plaintiff demands judgment against NJM and requests compensatory damages for all unpaid wages and benefits, prejudgment and post-judgment interest as allowed by law, and any and all such other relief as the Court deems just and proper; and further, demands a trial by jury of all issues so triable.

COUNT II:
BREACH OF IMPLIED CONTRACT

35. All previous paragraphs are incorporated herein by reference.

36. Plaintiff and others similarly situated entered into an implied employment agreement with NJM.

37. In return for work done for NJM, the named Plaintiff and others similarly situated were to be paid for the time that they worked.

38. NJM breached its duty to the Plaintiff and the Class or any Sub-Class thereof by failing to pay the Plaintiff and others similarly situated all the wages due to them.

39. The named Plaintiff and others similarly situated have been damaged due to the actions of the NJM Defendants.

WHEREFORE, the Plaintiff demands judgment against NJM and requests compensatory damages for all unpaid wages and benefits, prejudgment and post-judgment interest as allowed by law, and any and all such other relief as the Court deems just and proper; and further, demands a trial by jury of all issues so triable.

**COUNT III:
VIOLATION OF THE
NEW JERSEY WAGE PAYMENT LAW**

40. All previous paragraphs are incorporated herein by reference.

41. Plaintiff and all others similarly situated entered into an at will or written agreement with NJM for employment in the State of New Jersey during the relevant time period.

42. NJM did not properly pay the agreed upon wages to the Plaintiff and all others similarly situated as described above.

43. New Jersey's Wage Payment Law, N.J.S.A. 34:11-4.1 et seq, allows for a private right of action and class actions to collect those unpaid wages.

44. Plaintiff and all other similarly situated have been damaged as a result of NJM's conduct, and they demand their wages to be properly paid, with interest, costs of this action, and attorney's fees.

WHEREFORE, the Plaintiff demands judgment against NJM and requests compensatory damages for all unpaid wages, prejudgment and post-judgment interest, costs of suit and attorney's fees, and any and all such other relief as the Court deems just and proper; and further, demands a trial by jury of all issues so triable.

Respectfully Submitted,

/s/ Mark T. Sadaka
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Dated: August 5, 2020

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

CHARLES MAILOT

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Law Offices of Sadaka Associates
155 North Dean Street, Suite 4-D
Englewood, NJ 07631

DEFENDANTS

NEW JERSEY MANUFACTURERS INSURANCE COMPANY

County of Residence of First Listed Defendant Mercer County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question
(U.S. Government Not a Party)
☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input checked="" type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Diversity- Breach of Contract

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

08/05/2020

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE